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THE USE OF ADMINISTRATIVE SOURCES IN UPDATING THE BUSINESS REGISTER – LEGAL ASPECTS AND QUALITY	

1.INTRODUCTION

In the specific case of the General Register of Statistical Units in Portugal, either because of its size or its importance, it is necessary to resort to administrative sources.

In Portugal, this access is especially justified since the General Register of Statistical Units could not be effectively updated without resorting to administrative sources.

The principal problems arising from access to administrative data for statistical purposes in Portugal have to do with the promulgation of special legislature designed to protect specific secrets which does not take into account the characteristics of statistical output or the existing legislation in this domain.

2. LEGAL ASPECTS

The use of administrative sources for statistical purposes falls within the framework of a legal principle which can be considered evolved since it accepts the principle of access by the central statistical authority to the whole of administrative data in order to:

- increase the reliability of the information
- ensure the timeliness of the information
- reduce the statistical overload on companies
- reduce the overall cost of statistical output

The legislation governing the National Statistical System Law no. 6/89 of 15 April, which was approved by the supreme legislative entity in Portugal – the Assembly of the Republic, stipulates that the National Statistical Institute (INE), in addition to the statistical operations that it carries out within the scope of its activity, may request information from employees, authorities, services or entities as well as from natural or legal persons situated in national territory where they are engaged in an activity.

On the other hand, the legislation governing the operation of the National Statistical Institute, and which was approved by the government, establishes that this Institute, within the scope of its powers and duties, may legally access, for strictly statistical purposes, individualised information on co-operatives, state-owned and private undertakings, credit institutions and other economic agents, with the exception of natural persons. This information is collected within the scope of its functions by administrations, local authorities or institutions governed by private Law responsible for Managing the Public Service.

The legal framework previously described leads us to believe that the National Statistical Institute may use, without restriction, all the information pertaining to the statistical activity with the exception of information directly related to the privacy of citizens.

However, the provisions established by other legal instruments designed to protect specific secrets, conflicted with the legal rules organising the national legal system and raises questions of a practical nature regarding access to the primary information necessary for statistical activity. In particular, access to physical data was seriously compromised.

It was considered that the tax legislation, protecting the confidential nature of the information collected for tax purposes makes no reference to the legal model of a statistical nature and was published subsequently to the latter and hierarchically above the statistical legislation, which prohibited access to a portion of tax information.

It should also be noted that the tax legislation caused restrictions making it difficult for the hierarchy itself to decide on the supply of data.

It is therefore necessary to modify the legislation governing the exercise of the statistical powers of INE: a law authorising INE to access administrative files specifically related to Individuals.

Meanwhile, legislation was drawn up within another domain at the highest level of legislative power governing the Protection of computerised Personal Data Law no. 67/98 of 26 October which, taking into account the existing legal provisions, increased the number of obstacles, insurmountable until now, on access by the national statistical authorities to the data from computerised administrative tax files on Individuals.

This new legislation aimed at protecting citizens from any possibility of cross-matching personal data capable of violating fundamental rights protected by the Constitution, entails a relatively limited definition of personal data.

No exceptional treatment was provided for the National Statistical System, with INE having to deal once again with the problem of access to administrative data on Individuals, particularly with regards to tax information.

It is obvious that at the present time in Portugal the legal instruments of the National Statistical System clearly provide for the possibility of accessing administrative data on companies as a whole.

For statisticians, it is absolutely essential to be able to intervene in advance in all the domains capable of influencing the collection of basic information.

It is considered particularly important to make the political authorities and public opinion aware of the fact that it is absolutely necessary to reinforce the collection of statistical information through the use of administrative sources and that, from a statistical view point, individualised data is essential to permit this:

1. systematic recourse to sampling surveys
2. suppress, in whole or in part, certain statistical operations
3. reduce the statistical overload on companies
4. reduce the overall cost of producing statistical information
5. strengthen the possibility of cross-validating information collected in statistical surveys with administrative sources.

Within a context in which increasing amounts of more detailed and better quality statistical information are requested with increasingly demanding time periods, while at the same time there is increasing pressure to reduce the administrative overload on companies, the only solution continues to be the integration of the statistical collection process with administrative information.

3. INFLUENCE OF THE AFOREMENTIONED LEGAL ASPECTS ON THE GENERAL REGISTER OF STATISTICAL UNITS.

The only apparently credible way of ensuring the continuity of processes safeguarding the infrastructure principles of statistical output, in which the business register plays a leading role, consists of creating an effective capacity for a cross-sectional intervention by the statistical systems in all domains.

An intervention of this type cannot be considered as an action to be carried out after the implementation of administrative acts, but particularly as a decisive component in the process of designing the administrative act.

As a result, the collection and processing of statistical information must be considered upon the preparation of all legislation in which the knowledge of quantitative data intervened in sectors of general interest, under penalty of not only completely preventing any chance of meeting the growing need for statistical information, but also of leading to the debasement of information that has already been produced and stabilised.

Basically, the concrete situation described above reflects, at the different levels of the decision-making process, a general lack of sensitivity to the problems of statistical output, despite the fact that certain interveners in this process are themselves major users of official statistics.

One of the legal reasons used to justify the denial of access to tax data is the fact that the statistical use of this data is not the determining factor in its collection and that, on the other hand, INE can collect this same data through its own surveys, to which responses are also obligatory.

In addition to the difficulties presented, in 1999 and pursuant to Directive no. 271/99 of 13 April, transferring the powers of the National Registry of Legal Persons to Revenue Offices regarding the registration of Individuals, access to information on the formation of this type of entity became more difficult.

Although its importance in terms of gross added value is not significant, these entities play an important role not only due to the relative weight of the number of units in the General Register of Statistical Units, as well as in terms of employment.

4. CHARACTERISTICS OF THE GENERAL REGISTER OF STATISTICAL UNITS

In Portugal, businesses, broadly speaking, (i.e.) companies and Individuals, are assigned a single identification number.

From the view point of statistical output and until April 1999, access to this data implied having information on all the legal units created, containing the minimum essential characteristics for their statistical use, such as the name, address, principal economic activity, etc. from a special registry, the National Registry of Legal Persons, attached to the Ministry of Justice.

However, from April 1999 and subsequent to publication of Directive no. 271/99 of 13 April transferring the powers of the National Registry of Companies (RNPC) to Revenue Offices regarding the registration of Individuals, access to this data means that only information for companies is available.

However, access to RNPC data does not enable us to verify whether businesses, currently only companies, are economically active or to regularly use certain variables, essential for the use of the FGUE as a baseline universe for the selection of samples within the scope of the various business surveys.

It is therefore essential to use this data for statistical purposes, define an on-going process ensuring updating, facilitating in this case the use of a single number since otherwise we risk including in the universe for sample selection a set of non-existent units since they never began an economic activity.

The process of updating the statistical units contained in the FGUE may be done in two ways:

- launching postal surveys
- access to administrative sources

Updating through the launch of regular statistical surveys implies the allocation of considerable human and financial resources.

Updating through tax sources makes it possible to regularly ensure sufficient coverage of:

- the units which have not commenced their activity
- the principal stratification variables of these units

The information on those units which have not begun their activity may be obtained from tax sources, since they do not take into account information considered confidential. At any rate, the law makes it possible to currently refuse administrative data which has not yet been interpreted.

In Portugal and as we mentioned before, despite existing difficulties, use is made of the administrative information provided to INE to avoid overloading businesses and to reduce costs arising from statistical operations.

The option of managing the FGUE was based on the possibility, through the use of all the files inventoried in central government, to have adequate information on all the units to be considered for statistical purposes.

Any other possibility would lead to a very substantial increase in the resources allocated to the unit managing the Business Register and in the respective management costs accruing to INE and to businesses.

5. GENERAL REGISTER OF STATISTICAL UNITS

5.1 ADMINISTRATIVE BODIES INTERVENING IN THE LEGAL PROCESS OF FORMING A BUSINESS

5.1.1 Formation of a company

In order to clarify the competencies and links between the various administrative bodies intervening in the legal process of forming a company in Portugal, the steps necessary to do so are presented briefly :

⇒ 1st Step

Application for a **Certificate of Admissibility** of a company name and a **Temporary Legal Person Identification Card**.

Office of the RNPC – National Registry of Legal Persons

⇒ 2nd Step

Scheduling a Public Deed

Notary's Office

Some of the documents necessary:

- Certificate of Admissibility of the company name;
- Temporary Legal Person Identification Card;

⇒ 3rd Step

Execution and Delivery of the Deed of Incorporation

Notary's Office

⇒ 4th Step

Statement of Commencement of Activity

Office of DGCI (Directorate General for Taxation)

⇒ **5th Step**

Application for Registration, Publication in the *Diário da República* (Official Gazette) and Registration with the RNPC

Companies Registration Support Office.

This Office is responsible for sending all the documentation to the respective Companies Registry (of the area where the company's registered office is situated).

Documents:

- Public Deed of incorporation of the company;
- Certificate of Admissibility of the company name;
- Statement of Commencement of Activity

⇒ **6th Step**

Social Security Registration

CRSS (Regional Social Security Centre)

Documents:

- Taxpayer's Identification Slip
- Public Deed of incorporation of the company
- Temporary Legal Person Identification Card;
- Statement of commencement of activity

⇒ **7th Step**

Application for registration with the Commercial or Industrial Register

It is necessary to contact the Directorate General for Commerce and Competition or the Regional Delegation of the Ministry of the Economy of the area of the establishment.

5.1.2 Establishment of an Individual business

The process of establishing an Individual business consists of contacting the Revenue Office of the area where the company has its registered office and where it will commence its activity and completing the appropriate form.

5.2 UPDATING PROCESSES

The process of updating the FGUE through administrative sources consists of various phases. Of these, some of the most important are as follows:

- i) Knowledge of the administrative sources, with this knowledge being acquired either through documents supporting this data or through contacts with the bodies supplying the information;
- ii) Transforming the administrative information into statistical information by applying conversion tables;
- iii) Applying statistical methodologies enabling the conversion of administrative concepts to statistical concepts.

This process of converting administrative information to statistical information has revealed itself to be a complex task, particularly regarding the design of the new computer application to support the FGUE.

5.3 UPDATING SOURCES

The General Register of Statistical Units is updated by the following administrative sources:

Ministry of Justice – National Registry of Legal Persons – Central Register of Legal persons (FCPC).

Ministry of Finance – Directorate General of Inland Revenue – Corporation Tax (IRC), Income Tax (IRS) and Value Added Tax (IVA).

Ministry of Labour and Solidarity – Personnel File

The BATCH process of updating with information from administrative sources was developed in 1994, based on a set of hierarchies and schedules for updating administrative sources, which over the years has been debased due to:

- i) Changes in the schedule for making administrative sources available, thus making the predefined hierarchies impracticable.
- ii) Changes in the schedules for the dissemination of information, which went from an annual process to a half-yearly process;
- iii) The content of the sources which has undergone change over the years, without prior communication to INE.

These aspects led, beginning in 1999, to the development of a new computer application which is now in its final stages of completion.

5.3.1 NATIONAL REGISTRY OF LEGAL PERSONS

5.3.1.1 The Central Register of Legal Persons

The RNPC is integrated in the Directorate General of Registries and Notaries as the Companies Registry (Decree-Law no. 129/98 of 13 May).

The function of the Companies Registry (RNPC) is to organise and manage the central register of legal persons (FCPC) as well as assess the admissibility of company and business names and certify them.

The Central Register of Legal Persons (FCPC) consists of a computerised database which organises updated information on legal persons which Central Government services require in order to exercise their powers and also contains, with the same objectives, information of general interest on public or private organisations not recognised as independent legal entities as well as international legal entities and entities governed by foreign law.

It is the responsibility of the RNPC to identify companies and entities treated as such, register their formation, change and dissolution in the FCPC and ensure compliance with the principles of the exclusiveness and veracity of the respective company names, as well as other forms of individualising legal persons and entities treated as such.

It is also the responsibility of RNPC to safeguard the accuracy and timeliness of the information contained in the FCPC, issue certificates of admissibility of company names and issue identification cards for legal persons, entities treated as such and establishments.

Since this entity is responsible for assigning the Legal Person Identification Number (NPC), it is the most credible source as well as the source *par excellence* to identify the new legal units.

However, as from the 2nd half-year of 1999 and pursuant to Directive 271/99 of 13 April, information on Individuals became the responsibility of the Directorate General of Inland Revenue (DGCI), with the tax number assigned to these units being the tax number for natural persons. Due to legal limitations resulting from the protection of personal data, namely articles 8 and 9 of Law no. 67/98 of 26 October, INE has not yet been granted access to this information.

➤ Information for updating:

The information sent by the RNPC on a quarterly basis is divided into two groups:

Register 1: Reductions by Substitution

As a reference, the no. of observations sent in the register relating to the 4th quarter of 2000 roughly totalled 6,500 .

Register 2: Changes / Additions / Retirements of fixed assets

For the same reference period, the number of observations involved was roughly 120,000.

The RNPC, the principal administrative source for updating the FGUE, does not ensure:

- adequate classification of the economic activity;
- initial information on such relevant quantitative variables as the Number of Employed and Turnover;
- information making it possible to identify unit demergers and mergers;
- information on when the unit actually commences its activity, in other words, the transformation of a legal unit into a statistical unit;
- information on the suspension of activity.

Despite the fact that the content of the legislation governing the RNPC leads to the conclusion that this flow of information would be ensured, this has never occurred nor it is expected to occur.

The RNPC ensures adequate access to all the legal units created, some of which never become statistical units since they never commence their activity.

In this sense, the FGUE will tend to systematically overcover statistical units, if it resorts exclusively to that administrative register.

In the past, one of the most relevant problems regarding the quality of the FGUE had exactly to do with the inclusion of a significant set of legal units without economic activity and which therefore never became statistical units.

It is easy to conclude that with the instruments available, the assessment of coverage is an indicator the analysis of which should be carefully and appropriately relativised.

In this sense, it is more important to analyse/discuss the criteria for including/excluding the legal units initially included in the FGUE through the FCPC than the quantitative indicator aimed at assessing coverage of the FGUE.

➤ Updating process

This source is updated on a half-yearly basis during the months of September of year n, for information pertaining to the 1st and 2nd Quarter of n, and in February of n+1 for information pertaining to the 3rd and 4th Quarter of n.

This updating process is undertaken at the INE Department of Information and Computer Systems by means of a set of conversion tables and filters developed in COBOL. The rules for updating this source has not undergone change and has deteriorated over the years due to the fact that it does not include the new codes since introduced in the source.

Given the large size of the register, the complex register format and design, this continues to be the only source using the Batch updating programme developed 8 years ago.

5.3.2 MINISTRY OF FINANCE

INE receives information on Value Added Tax (VAT), Corporation Tax (IRC) and Income Tax (IRS) from the Ministry of Finance on an annual basis.

5.3.2.1 Value Added Tax Register (VAT)

➤ Information for updating:

INE receives information on companies and Individuals on an annual basis from the VAT Office, broken down into three distinct registers:

Cessations of trade: roughly 60,000 observations were sent for 1999

Commencements of trade: the register sent contained roughly 80,000 observations for 1999

Resumptions of trade: there are roughly 20,000 observations for 1999

These registers are made in accordance with the respective statements (Form 1438 – Statement of entry in the Register / Commencement of activity and Form 1440 – Statement of Cessation) filed at the Revenue Office.

The information is processed at the Directorate General for Taxation and is sent to INE during the first quarter of n+2, in the form of registers.

➤ Updating process

This source is also updated at the INE Department of Information and Computer Systems. However, a prior analysis is conducted by the Register Unit as to the content and quality of the information received.

5.3.2.2 Corporation Tax (IRC) Register

➤ Information for updating

INE also receives annual information on companies from the Directorate General for Taxation. The Corporation Tax register contains, for 1999, roughly 140,000 observations and was received during the second quarter of n+2, due to the Tax Reform enacted that year.

This information would normally be expected to arrive during the 1st quarter of n+2.

This information is based on the tax return statement filed obligatorily at the Revenue Office (Form 22 – Tax Return Statement).

The information made available to INE is as follows:

- Legal Person Identification Number
- Total Sales
- Total Income
- Change in the Value of Stocks
- Equity holding
- Total liabilities and shareholders' equity

In addition to the above information, information regarding the Companies Register of Directorate of Revenue, was made available to INE for the 1st time and consists of the following:

Legal Person Identification Number, Name, Street, Number, Floor, Location, Post Code, Date of Incorporation, Date of Elimination, Date of Amendment to the Articles of Association, Date of Dissolution, Classification of Economic Activity.

➤ Updating process

During 2001, a programme was developed in SAS making it possible to verify the content of the information and its quality. This programme is based on a set of hierarchical procedures making it possible to obtain subfiles for direct updating in the FGUE.

Regarding IRC data for 1999, Turnover was the only variable that until the present time has led to updating the FGUE.

In relation to information on companies contained in the Registry and which received for the 1st time this year, we are still analysing its quality for subsequent inclusion in the FGUE.

5.3.2.3 Income Tax (IRS) Register

➤ Information for updating

INE has received registers containing information on the activity status of Individuals since 1996, that is, the Ministry of Finance indicates which Individuals have filed a statement of commencement of activity at the Revenue Office.

Despite the fact that INE is required to maintain statistical confidentiality, the Ministry of Finance holds that the remaining information relating to these statistical units (in other words, the Number of Employed, or Sales Volume and Turnover), is confidential information (in accordance with the Personal Data Protection Act) and is not sent to INE.

There has been and continues to be a lack of free access to tax data on Individuals which degenerated following publication of Directive no. 271/99 of 13 April which transfers the powers of the National Registry of Legal Persons regarding the registration of Individuals to the Revenue Offices.

➤ Updating process

It is thus extremely difficult to update this specific group of entities since access to this important source is very limited.

However, regarding 1998, the GDCI supplied INE with the average value for the Turnover of Individuals based on the previously defined categories.

5.3.3 MINISTRY OF LABOUR AND SOCIAL SOLIDARITY

5.3.3.1 Personnel File

The Ministry of Labour and Solidarity is responsible for the 'Personnel File' administrative instrument, under Decree-Law no. 332/93 of 25 September.

Within the purview of this Decree Law, the entities with employed workers are required to send a duly completed statement of persons employed to the delegations of the Institute for the Improvement and Inspection of Working Conditions.

The scheme provided for in this statute does not apply to:

- central, regional and local government, as well as to public institutes in the form of personalised State and public fund services;
- other legal persons governed by public Law and employers engaged in agricultural, forestry or game and fish husbandry activities except for workers covered by a social security scheme or by a collective labour agreement.
- domestic work.

➤ Information for updating

This file contains roughly 200,000 replies from statistical units providing information at the company level.

Despite the fact that, as the name itself suggests, this register presents a high potential for the Number of Employed variable, the concept of this variable for this register is not referenced for the period that the FGUE requires. In effect, the Establishment Plan variable provides the Number of Employed in the company *during the last week of October* and not the Average Number of Employed, a concept used by INE. The situation for Sales Volume and Turnover is similar to the problem of updating – the value provided by the Personnel File refers to the value for the preceding year. In the questionnaire for the year n, a value is requested for the Turnover of year n-1 since the reply by companies must be given in November of year n.

➤ Updating process

During 2001 following the same process as for Tax Register, a programme was developed in SAS, making possible verify the content and quality of the variable number of employees.

5.3.2.3 Social Security Register

The Social Security registers are not used since they do not include the Legal Person Identification Number.

5.4 QUALITY OF THE SOURCES

Another aspect worth mentioning is quality, since in the particular case of registers updated essentially from administrative sources, the quality of the register depends on the quality of the sources.

Generally speaking, the problems of source-related quality are as follows:

Missing variables, missing individual data, different time references.

However, the final quality of the Business Register obtained by integrating various sources, is the result of the links established between the various registers and takes into account the consistency of the variables provided as well as the individualised information.

6. THE FUTURE UPDATING PROCESS

6.1. External Sources Model

External sources of information are received directly by the Register Unit. This information is sent to the Department of Computer Systems, which, after applying the conversion tables, makes it available to the Data Warehouse (DW). This DW model thus represents a data warehouse of administrative sources.

At present, information on IRC and information from the Portuguese Central Bank is already available in the DW.

This model enables a comparison and analysis of the information provided from company to company for the same variable and different sources through the Legal Person Identification Number.

Thus, the information from administrative sources is validated beforehand and only subsequently integrated in the FGUE Model.

6.2. General Register of Statistical Units – New Model

The validated information resulting from the External Sources Model is then compared with the information contained in the FGUE and subject to a set of Filters leading to both subsets of information for the direct updating of FGUE, and subsets of information which will later undergo analysis and on-line updating.

In order to finalise, it should be referred that despite the fact that all the functionalities and flexibility which will be introduced in the New Model for updating information from administrative sources, there is still a problem regarding the updating of characterisation data, namely names and addresses since INE Portugal does not have the software to standardise names and addresses.

This work is outsourced, with all the restrictions resulting therefrom.

It is expected that the geographic information system will be integrated in the FGUE in the medium term, within the next 3 to 4 years.